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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 HASAN MALIK DAVIS,

Case No. 3:22-cv-00388-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 STATE OF NEVADA,

10 Defendant.

11 *Pro se* Plaintiff Hasan Malik Davis brings this action under 42 U.S.C. § 1983. (ECF
12 No. 6.) Before the Court is the Report and Recommendation (“R&R”) of United States
13 Magistrate Judge Carla L. Baldwin (ECF No. 11), recommending the Court dismiss this
14 action without prejudice and deny Plaintiff’s motion to suppress (ECF No. 9) as moot.
15 Plaintiff had until January 31, 2023, to file an objection. (ECF No. 13.) To date, Plaintiff
16 has not filed an objection to the R&R. For this reason, and as explained below, the Court
17 adopts the R&R, and will dismiss this action without prejudice and deny Plaintiff’s motion
18 to suppress as moot.

19 Because there is no objection, the Court need not conduct *de novo* review, and is
20 satisfied that Judge Baldwin did not clearly err. *See United States v. Reyna-Tapia*, 328
21 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
22 recommendations is required if, but *only* if, one or both parties file objections to the
23 findings and recommendations.”); Fed. R. Civ. P. 72, advisory committee note to 1983
24 amendment (providing that the Court “need only satisfy itself that there is no clear error
25 on the face of the record in order to accept the recommendation”).

26 Here, Judge Baldwin recommends dismissing this action without prejudice
27 because several factors weigh in favor of dismissal after Plaintiff’s failure to comply with
28 the Court’s order. (ECF No. 11 at 2.) *See also Thompson v. Hous. Auth. of City of L.A.*,

1 782 F.2d 829, 831 (9th Cir. 1986) (listing five factors for determining whether to dismiss
2 an action for failure to obey a court order, which are “(1) the public’s interest in expeditious
3 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice
4 to the defendants; (4) the public policy favoring disposition of cases on their merits and
5 (5) the availability of less drastic alternatives”) (citations omitted); *Malone v. U.S. Postal*
6 *Serv.*, 833 F.2d 128, 133 (9th Cir. 1987) (affirming dismissal for failure to comply with
7 court order after applying the *Thompson* factors). Moreover, the Court had already
8 warned Plaintiff that his failure to timely comply with the Court’s order to either file an
9 application to proceed *in forma pauperis* by a non-inmate or pay the full filing fee would
10 result in dismissal of this action. (ECF Nos. 8, 11 at 2-3.) *See also Malone*, 833 F.2d at
11 132-33 (recognizing that “warning a plaintiff that failure to obey a court order will result in
12 dismissal can suffice” to meet the “consideration of alternatives” factor in *Thompson*)
13 (citations omitted). The Court agrees with Judge Baldwin. Having reviewed the R&R and
14 the record in this case, the Court will adopt the R&R in full.

15 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF
16 No. 11) is accepted and adopted in full.

17 It is further ordered that this action is dismissed without prejudice.

18 It is further ordered that Plaintiff’s motion to suppress (ECF No. 9) is denied as
19 moot.

20 It is further ordered that the Clerk of Court enter judgment accordingly and close
21 this case.

22 DATED THIS 10th Day of February 2023.

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25 MIRANDA M. DU
26 CHIEF UNITED STATES DISTRICT JUDGE
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